



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CTS- 173073

PRELIMINARY RECITALS

On March 23, 2016, the above petitioner filed a hearing request under Wis. Stat. § 227.42 and Wis. Admin. Code § 3.03, to, to challenge a decision by the La Crosse County Department of Human Services regarding Caretaker Supplement benefits. The hearing was held on May 5, 2016, by telephone, from Madison, Wisconsin.

The issue for determination is whether

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

La Crosse County Department of
Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Petitioner and his wife are separated and a divorce is pending. Petitioner has majority placement of his son, [REDACTED], pursuant to a Temporary Court Order dated January 14, 2016. Petitioner receives Supplemental Security Income (SSI) benefits from State and Federal sources, and has received monthly SSI payments since 1998. See, Exhibit 2.
3. Petitioner applied for Caretake Supplement (CTS) benefits on February 29, 2016, but was denied. Respondent's denial notice indicated that, "To get this benefit, the parents in the home must be getting SSI and caring for their dependent children. You do not meet these rules." See, Exhibit 2, p. 6.
4. Petitioner appealed the CTS benefits denial on March 23, 2016.

DISCUSSION

Beginning January 1, 1998, with the advent of the Wisconsin Works (W-2) program, Aid to Families with Dependent Children (AFDC) ceased to exist in this state. Since W-2 is a work program, and SSI recipients by definition are unable to work, SSI recipients cannot qualify for W-2. The state thus implemented the Caretaker Supplement Program, which currently pays Supplemental Security Income to (SSI) recipient parents. The program is mandated by Wis. Stat., §49.775.

To be eligible for the CTS payments the following criteria must be met: (1) the caretaker must be an SSI recipient, or if both parents are in the home, both parents must receive SSI; (2) the child or children must meet the financial and non-financial criteria for AFDC as it existed on July 16, 1996; and (3) the child or children must not receive SSI payments themselves. Wis. Stat., §49.775(2). Other requirements in subsection (2) are that the caretaker cannot be eligible for Wisconsin Works due to her receiving SSI, the child cannot receive SSI, and the household would have been eligible for the old AFDC program. The statute does not include a requirement that the person apply for the benefit to become eligible.

The petitioner established that he is, in fact, presently receiving SSI benefits. The respondent's representative testified that it had been notified that petitioner was not receiving SSI, and therefore found him ineligible for CTS benefits. The petitioner provided bank statements verifying his receipt of SSI payments, however, and he further testified that he has been receiving SSI continuously since he was 18. In light of the documentary evidence and testimony to the contrary, the respondent has failed to establish that it correctly denied petitioner's CTS application.

CONCLUSIONS OF LAW

Petitioner was receiving SSI at the time of the CTS application, and therefore the respondent incorrectly denied the petitioner's CTS application due to its determination that petitioner was not receiving SSI.

THEREFORE, it is

ORDERED

That the matter be remanded to the respondent with instructions to re-determine petitioner's CTS application as of February 29, 2016, taking into account that petitioner has been continually receiving SSI benefits since 1998. The agency shall take the action within 10 days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

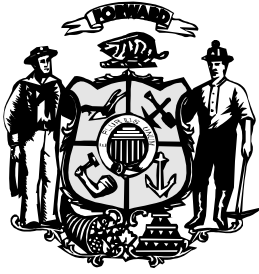
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of July, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 7, 2016.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability